

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6949

BILL NUMBER: SB 322

NOTE PREPARED: Jan 11, 2006

BILL AMENDED:

SUBJECT: Forfeiture of Public Pensions for Misconduct.

FIRST AUTHOR: Sen. Kruse

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Forfeiture of Pension Benefit:* The bill provides in certain circumstances for the forfeiture of all or a portion of a pension benefit from the State Excise Police, Gaming Agent, and Conservation Enforcement Officers' Retirement Plan, the Public Employees' Retirement Fund, and the State Police Benefit System.

Responsible Board: The bill requires the respective boards that administer each of these funds to consider investigating a possible forfeiture whenever a fund member is convicted of a felony involving an act of fraud, deceit, or abuse of the public trust resulting in a financial loss to the public or an unlawful benefit to an individual in the conduct of state business, bribery, official misconduct, or certain other offenses. This bill requires a board to wait until the entry of judgment of conviction before holding a public hearing to determine whether forfeiture is appropriate.

Due Process Established: The bill establishes due process requirements for a forfeiture hearing.

Majority Board Vote: The bill requires a majority vote by a board, based on clear and convincing evidence, to forfeit a pension benefit.

Written Determination: The bill requires a board to: (1) issue a written determination; and (2) reduce the amount of a proposed forfeiture by the amount of any restitution made.

Reconsideration Request: The bill allows a fund member to request that the respective board reconsider a forfeiture determination.

New Hearing: This bill provides for a new hearing if a fund member's conviction is reversed, vacated, or set aside.

Contribution Returned: The bill provides for the return of a fund member's contributions with interest when the pension benefit is forfeited.

Evidence Confidential: This bill provides that the administrator's evidence concerning forfeiture is confidential until: (1) the fund member is notified of the forfeiture hearing; or (2) the fund member elects to have the records made public.

Final Determination Available: The bill provides that a final determination of a board is available for inspection and copying.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Forfeiture of Pension Benefit:* The specific impact on any of the listed pension funds will depend upon several factors such as age of the member, marital status, salary, years of creditable service, years to a full retirement benefit, and the actuarial reduction as determined by the actuary for the respective fund. [The actuarial reduction is the reduction in the normal retirement benefit that offsets a cost increase to the plan when a participant retires ahead of schedule.]

The funds affected are: (1) the state General Fund; (2) the Motor Vehicle Highway Account; (3) the Fish and Wildlife Fund; (4) the Administrative Fund; and (5) various dedicated funds.

Administrative Costs: There may be additional administrative expenditures, unknown at this time, related to meetings, copying of documents, and investigations as determined by the fund administrators. These additional expenditures could be minimal for the most part. However, prolonged investigations could add significant costs to the funds involved.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: The State Excise Police, Gaming Agent, and Conservation Enforcement Officers' Retirement Fund, the Public Employees' Retirement Fund, and the State Police Benefit System.

Local Agencies Affected:

Information Sources:

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